

## PUBLIC HEALTH DEPARTMENT[641]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 135.112, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 91, “Iowa Domestic Abuse Death Review Team,” Iowa Administrative Code.

The rules in this chapter outline the duties and responsibilities for the Iowa Domestic Abuse Death Review Team. These amendments are intended to bring the rules into compliance with Iowa Code changes, including the composition of the team and the frequency with which reports are issued.

Any interested person may make written suggestions or comments on these proposed amendments prior to August 20, 2010. Such written materials should be directed to the Domestic Abuse Death Review Team, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; fax (515)281-4535.

Also, there will be a public hearing on August 19, 2010, at 10 a.m. in Room 517 of the Lucas State Office Building, Des Moines, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department of Public Health and advise of specific needs.

These amendments are intended to implement Iowa Code sections 135.108 to 135.112.

The following amendments are proposed.

ITEM 1. Strike “77GA,ch1221” wherever it appears in rules **641—91.1(77GA,ch1221)** to **641—91.11(77GA,ch1221)** and insert “135” in lieu thereof.

ITEM 2. Amend rule 641—91.4(135), introductory paragraph, as follows:

**641—91.4(135) Membership.** The membership of the team is subject to the provisions of Iowa Code sections 69.16 and 69.16A, relating to political affiliation and gender balance. Team members who are not designated by another appointing authority shall be appointed by the director of public health, in consultation with the attorney general. At least one member shall also be a member of the Iowa child death review team. Membership terms shall be for three years. One-third of the initial members shall serve for three years, one-third of the initial members shall serve for two years, and one-third of the initial members shall serve for one year, as designated by the appointing authority.

ITEM 3. Amend paragraph **91.4(1)“b”** as follows:

*b.* A licensed physician or nurse who is knowledgeable concerning domestic abuse injuries and deaths, including suicide, and child deaths by homicide suicides.

ITEM 4. Amend paragraph **91.4(1)“m”** as follows:

*m.* ~~A former~~ Both a female and a male victim of domestic abuse.

ITEM 5. Adopt the following new subrule 91.4(5):

**91.4(5)** Members of the team who are currently practicing attorneys or current employees of the judicial branch shall not participate in the following:

*a.* A case review involving a case in which the team member is presently involved by professional capacity.

- b. Development of protocols for domestic abuse death investigations and team review.
- c. Development of regulatory changes related to domestic abuse deaths.

ITEM 6. Rescind rule 641—91.8(135) and adopt the following new rule in lieu thereof:

**641—91.8(135) Team duties and responsibilities.**

**91.8(1)** The team shall perform the following duties:

a. Prepare a biennial report to the governor, supreme court, attorney general, and the general assembly concerning the following subjects:

(1) The causes and manner of domestic abuse deaths, including an analysis of factual information obtained through review of domestic abuse death certificates and domestic abuse death data, including patient records and other pertinent confidential and public information concerning domestic abuse deaths.

(2) The contributing factors of domestic abuse deaths.

(3) Recommendations regarding the prevention of future domestic abuse deaths, including actions to be taken by communities, based on an analysis of the contributing factors.

b. Advise and consult the agencies represented on the team and other state agencies regarding program and regulatory changes that may prevent domestic abuse deaths.

c. Develop protocols for domestic abuse death investigations and team review.

**91.8(2)** In performing duties pursuant to subrule 91.8(1), the review team shall:

a. Review information concerning the relationship between the decedent victim and the alleged or convicted perpetrator from the point when the abuse began until the death occurred in order to identify any correlation between events in the relationship and the escalation of the abuse.

b. Review documents such as orders of protection, dissolution, custody, and support or related court records.

c. Determine whether patterns regarding these events can be established in relation to domestic abuse deaths in general, and consider such conclusions in making recommendations for the biennial report.

**91.8(3)** The team may establish committees or panels to which the team may assign some or all of the team's responsibilities set out in this rule.

ITEM 7. Amend rule 641—91.9(135) as follows:

**641—91.9(135) Liaisons.** The following individuals shall each designate a liaison to assist the team in fulfilling its responsibilities:

1. to 8. No change.

9. Director of human rights.

10. Administrator of the bureau of vital records of the department of public health.

ITEM 8. Amend rule 641—91.10(135) as follows:

**641—91.10(135) Confidentiality and disclosure of information.** The team and liaisons shall maintain the confidentiality of all information and records used in the review and analysis of domestic abuse deaths, including disclosure of information which is confidential under Iowa Code chapter 22 or any other provisions of state law.

**91.10(1)** No information on individual deaths contained in the records described in this rule shall be disclosed except for the purposes of the team, committee or subcommittee meeting, and no confidential information received in preparation for or during the course of such meeting shall be removed from the meeting room except for further review as authorized by the team chairperson.

**91.10(2)** In preparation for review of an individual death by the team or its authorized committee or subcommittee, the chairperson of the team or the chairperson's designee is authorized to gather all information pertinent to the review. This information may include, but is not limited to, ~~hospital records, physician's records, school records, day-care records, autopsy records, child abuse registry, investigation or assessment records, state public assistance records, traffic records, public safety records,~~

~~law enforcement records, fire marshal's records, birth records, death records, and other relevant records necessary to conduct a complete review.;~~

- a. Hospital records;
- b. Physician's records;
- c. School and child care records;
- d. Autopsy records;
- e. Child abuse registry, investigation or assessment records;
- f. State public assistance records;
- g. Traffic and public safety records;
- h. Law enforcement records;
- i. Fire marshal's records;
- j. Birth and death records; and
- k. Other relevant records necessary to conduct a complete review.

**91.10(3)** A person in possession or control of medical, investigative or other information pertaining to a domestic abuse death ~~and domestic abuse death review~~ and related incidents and events preceding the domestic abuse death shall allow the inspection and reproduction of the information by the department upon the request of the department to be used only in the administration and for the duties of the Iowa domestic abuse death review team.

**91.10(4)** Information and records which are confidential under Iowa Code section 22.7 and Iowa Code chapter 235A, and information or records received from the confidential records, remain confidential under this rule.

**91.10(5)** A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this rule.

**91.10(6)** A person who releases or discloses confidential data, records, or any other type of information in violation of this rule is guilty of a serious misdemeanor.

ITEM 9. Amend rule 641—91.11(135) as follows:

**641—91.11(135) Immunity and liability.**

**91.11(1)** Review team members and their agents are immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of any act, omission, proceeding, decision, or determination undertaken or performed, or recommendation made as a review team member or agent provided that the review team members or agents acted in good faith and without malice in carrying out their official duties in their official capacity.

**91.11(2)** A complainant bears the burden of proof in establishing malice or lack of good faith in an action brought against review team members involving the performance of their duties and powers.

ITEM 10. Amend **641—Chapter 91**, implementation sentence, as follows:

These rules are intended to implement ~~1998 Iowa Acts, chapter 1221, section 5, subsection 4(10)~~ Iowa Code sections 135.108 to 135.112.